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STATE FOR NEA/MAG (HOPKINS AND HARRIS), DRL AND  
S/WCI (WILLIAMSON, MORRISON AND MUBANGU)  
NSC FOR CAMPONOVO  
DOJ FOR MONHEIM  
DOD FOR LIOTTA

E.O. 12958: DECL: 01/13/2017  
TAGS: [PTER](#) [KDRG](#) [PGOV](#) [PINR](#) [TS](#)  
SUBJECT: TRANSFERRING TUNISIAN DETAINEES AT GUANTANAMO:  
RECOMMENDATIONS

REF: TUNIS 1484 AND PREVIOUS

Classified By: Ambassador Robert F. Godec for reasons 1.4 (b) and (d)

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SUMMARY  
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11. (S/NF) As Washington agencies consider the disposition of the ten remaining Tunisian detainees at Guantanamo, we offer the following thoughts on how to move forward with their transfer to GOT custody. Following allegations that the two Tunisian detainees transferred in June 2007 were tortured, the Ambassador repeatedly pressed GOT officials for information and a strong reiteration of assurances. The officials denied allegations of torture and repeated earlier commitments, but we believe allegations that one of the detainees was mistreated are credible. Moreover, GOT officials have offered nothing to suggest that they would treat future detainees differently. At this juncture, we believe the only option to obtain "better" assurances is to raise the issue directly with President Ben Ali. However, even Presidential assurances may not ensure future transfers do not result in allegations of torture. End Summary.

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BACKGROUND  
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12. (S/NF) From late 2006 into mid-2007, the USG received a variety of assurances from the GOT regarding the transfer of Tunisian detainees at Guantanamo. In November 2006, the Ministers of Justice and Interior offered oral assurances about Tunisia's obligations under the Convention Against Torture and noted to an interagency delegation led by S/WCI Ambassador Williamson that many of the detainees faced in absentia charges. The Minister of Justice also provided oral assurances about third party access (e.g., the ICRC) to detainees in the Tunisian prison system. In 2007, Minister of State and Presidential Advisor Ben Dhia confirmed these assurances to the Ambassador and subsequently reiterated them in a letter to Deputy Secretary of State Negroponte. The exchanges paved the way for the June 2007 transfer of the first two detainees to GOT custody.

13. (S/NF) Following the first transfer, local and international NGOs alleged that the two detainees, Abdallah Ben Omar (al-Hajji) and Lotfi Ben Swei Lagha, had been

tortured and mistreated by GOT security forces. However, Ben Omar's Tunisian lawyer (the source of these NGO reports) clarified to PolOff and Tunisian media that, while Ben Omar was mistreated (slapped) and threatened (that he and his family members would be raped), he was not "tortured." Post continues to receive reports that Ben Omar is subject to psychological mistreatment. Without having had the chance to speak to or examine Ben Omar ourselves, it is still our assessment that his claims of mistreatment are credible. According to the same lawyer, who represents both detainees, Lagha was not subject to any mistreatment although he was reportedly held in solitary confinement for weeks after his transfer.

¶4. (S/NF) Since the transfer, the Ambassador demarched Foreign Minister Abdallah, Minister of Interior Belhaj Kacem and Presidential Advisor Ben Dhia regarding GOT assurances. (Note: The GOT declined to facilitate a meeting for the Ambassador with Minister of Justice Tekkari. End note.) All reiterated that Tunisia is a signatory of the Convention Against Torture (CAT) and would respect it. The Foreign Minister and Minister of Interior dismissed the detainees' mistreatment allegations and insisted that there was no merit to their claims. To our knowledge, there was no GOT investigation into reports of the detainees' mistreatment. Further, the ministers did not indicate that any future transfers will be handled differently to avoid such accusations.

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RECOMMENDATION  
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¶5. (S/NF) If Washington agencies determine that the assurances in paragraph four (as reported in detail in

reftels) are not sufficient, we believe only President Ben Ali is in a position to offer any more substantive assurances than those the GOT has already provided. The Ministry of Interior, which is probably the source of most human rights abuses in Tunisia, is a sovereign ministry and reports directly to the president. No other ministers or ministries can circumvent the MOI's authority in Tunisia. Therefore, future USG engagement on assurances should be directed to President Ben Ali, as other efforts are likely to be fruitless and only delay our ability to move forward with future transfers. This could be done in person, by a high-level State Department or other agency visit to Tunisia, or in writing. While Ben Ali may only repeat the assurances we have previously obtained from other officials, his response would be definitive.

¶6. (S/NF) We understand there has been discussion in Washington of seeking to transfer future detainees directly to the Ministry of Justice, bypassing the Ministry of the Interior. We do not believe the Tunisians would accept this proposal or that it would eliminate the problem. It is correct that Ben Omar was reportedly mistreated while in Ministry of Interior custody immediately following his June transfer and no further physical mistreatment was reported following his transfer to a Ministry of Justice (MOJ) prison facility. However, Post has received repeated reports of MOI officials mistreating other prisoners at MOJ facilities. Circumventing MOI custody would not ensure detainees are not mistreated.

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COMMENT: CAVEAT EMPTOR  
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¶7. (S/NF) We stand ready to assist with obtaining necessary assurances to allow for future transfers of Tunisian Guantanamo detainees. However, even Presidential assurances do not guarantee these transfers would result in renewed torture or mistreatment allegations. The Government of Tunisia has a poor human rights record, particularly in regard to prisoners and suspected terrorists. Even if the GOT does not mistreat other detainees, local and

international NGOs may make inflated claims of abuse and  
accuse the USG of violating its international obligations.  
End Comment.

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